

BILL NO. G- 15-03-09

General Ordinance No. G-\_\_\_\_\_

**AN ORDINANCE AMENDING CHAPTER 36,  
PERSONNEL POLICIES, OF THE CITY OF FORT  
WAYNE, INDIANA CODE OF ORDINANCES**

**WHEREAS**, the repeal of collective bargaining rights for non-public safety employee has left an uncertainty with respect to said employees' rights to due process with regard to discipline or dismissal;

**WHEREAS**, a uniform set of policies, practices, and procedures for all non-public safety employees would reduce any uncertainty as to said employees' rights;

**NOW THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:**

**SECTION 1.** That Chapter 36 of the Municipal Code of Ordinances is hereby amended to add a new Section 36.04 "Employee Rights (Non-Public Safety)":

**§ 36.04 Employee Rights (Non-Public Safety)**

(a) Definitions (for purposes of this Section):

(1) "Employee" shall mean a non-public safety employee of the City of Fort Wayne.

1 (2) "Grievance" shall mean any dispute regarding any adverse  
2 employment action taken against an employee, including but not limited to:  
3 written reprimand; suspension (with or without pay); demotion; or termination.  
4 Written or oral counseling are not considered discipline and are not subject to  
5 any grievance processing.  
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7 (3) "Permanent Employee" shall mean any non-public safety  
8 employee of the

9 City of Fort Wayne who has completed the probationary period of the  
10 employee's employment.  
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12 (b) Employees shall have the right to form, join and participate in any  
13 employee labor organization of their own choosing, or to refrain from forming,  
14 joining, or participating in same. However, confidential, managerial and  
15 professional employees and supervisors shall not be represented by any  
16 employee organization, nor shall such employees take an active role in the  
17 policy-making activities of an employee organization.  
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19 (c) Representatives of any employee organization composed of two or more  
20 employees may, during regular business hours, enter onto City property for  
21 the purposes of representing any member of the organization at the  
22 member's request. In addition, such employee organization representatives  
23 shall be allowed to discuss union-related matters with employees at any time,  
24 such as breaks or lunch periods, that do not adversely impact the City's daily  
25 operations.  
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1 (d) Any employee labor organization shall be eligible, upon agreement with  
2 the City, to have its periodic membership dues deducted and collected by the  
3 City from the salaries of those employees who present signed cards, in a  
4 form satisfactory to the City, authorizing the deduction of such dues. This  
5 deduction may be revoked by the employee during the first week in January,  
6 each year, upon written notice of such revocation furnished to the City by the  
7 employee.  
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9 (e) Employees shall have the right to be represented by an employee  
10 organization of their own choosing, in the determination of any Grievance,  
11 informal or formal, arising out of their City employment.  
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13 (f) An employee may present his or her own Grievance, in person or by legal  
14 counsel, to the City and have such Grievance adjusted without the  
15 intervention of any employee organization even if the employee is a member  
16 of an employee organization.  
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18 (g) Disciplinary actions against a permanent employee can only be taken for  
19 just cause. A disciplinary action taken for "just cause" shall include an action,  
20 including termination, taken based on the employee's willfully disregarding  
21 the City's interest, or taken based on the employee's willful disregard of the  
22 employee's duties. "Just cause" also includes any reduction in force  
23 necessitated by financial concerns.  
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25 (h) It is the policy of the City to encourage discussion on an informal basis  
26 between the supervisor and an employee of any employee Grievance. Such  
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1 discussion should be held with a view to reaching an understanding which  
2 will resolve the matter without need for recourse to the formal Grievance  
3 procedure.  
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5 (i) If the above informal procedure has been followed and the supervisor and  
6 employee are still unable to settle the Grievance, the employee, individually  
7 or through the employee's designated representative shall, within ten (10)  
8 days following receipt of the City's decision after informal Grievance review,  
9 notify the City of any intent to appeal the dispute. The appeal shall be heard  
10 by a three (3) member board. The board members shall be as follows: two  
11 (2) members chosen by the Mayor; and, one (1) member chosen by City  
12 Council as needed.  
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14 (j) If the above formal procedure has been followed and either the supervisor  
15 or the employee disagree with the findings, the City shall submit a request for  
16 a list of seven (7) arbitrators from the Federal Mediation and Conciliation  
17 Service. After receipt of the panel of arbitrators, the parties shall draw lots to  
18 determine who shall strike the first name from the list, and then continue  
19 striking names on an alternate basis. The last remaining name shall be  
20 deemed the arbitrator by mutual consent of the parties.  
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23 (k) The answer of the arbitrator shall be in writing unless otherwise agreed on  
24 by both parties. The arbitrator's decision shall be final and binding on the  
25 parties, and in the event either party shall fail or refuse to abide by the  
26 decision of the arbitrator, the offended party can bring an action in the  
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1 appropriate court to seek enforcement of the arbitrator's decision. The court  
2 in its discretion may award the prevailing party reasonable attorney fees in  
3 addition to any other relief adjudged.  
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5 (I) The employee and the City shall equally share the fees of the arbitrator,  
6 including any mutually agreed upon services relating to the arbitration  
7 proceedings.  
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9 **SECTION 2.** That the City is directed to take all action  
10 necessary and proper for the implementation of this Ordinance.  
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12 **SECTION 3.** That this Ordinance shall be in full force and  
13 effect on and after its passage and any and all necessary approval by the  
14 Mayor.  
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16 \_\_\_\_\_  
17 Council Member  
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19 APPROVED AS TO FORM AND LEGALITY  
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22 Joseph G. Bonahoom, City Council Attorney  
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